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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WESLEY E. DUNNING,

Plaintiff - Appellant,

v.

LOS ANGELES COMMUNITY  
COLLEGE DISTRICT,

Defendant - Appellee.

No. 07-55958

D.C. No. CV-05-08090-GAF

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Gary A. Feess, District Judge, Presiding

Submitted December 17, 2008<sup>\*\*</sup>

Before: GOODWIN, WALLACE, and RYMER, Circuit Judges.

Wesley E. Dunning appeals pro se from the district court's summary judgment for the Los Angeles Community College District ("District") in his action raising claims of race and age discrimination in employment. We have

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Lowe v. City of Monrovia*, 775 F.2d 998, 1003 (9th Cir. 1985), and we affirm.

The district court properly granted summary judgment because Dunning failed to raise a triable issue as to whether the District was seeking applicants for the position he sought during the relevant period of time. *See id.* at 1005 (explaining that under *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), to establish a prima facie case of race discrimination under Title VII, a plaintiff must show, among other things, that “he applied . . . *for a job for which the employer was seeking applicants*”) (emphasis added); *see also Diaz v. Eagle Produce Ltd. P’ship*, 521 F.3d 1201, 1207 (9th Cir. 2008) (applying *McDonnell Douglas* framework to claims under the Age Discrimination in Employment Act).

**AFFIRMED.**